

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**GERARD EDWARD LEHNER,**

**Plaintiff,**

**-against-**

**1:11-CV-0729**

**INTERNAL REVENUE SERVICE,,**

**Defendant.**

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**DECISION & ORDER**

**McAvoy, S.U.S.D.J.:**

This action, brought pursuant to 42 U.S.C. § 1983, was referred by this Court to the Honorable Randolph F. Treece, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

In the Report-Recommendation, Magistrate Judge Treece recommends dismissal of the Complaint or, in the alternative, that Plaintiff be given leave to file an amended complaint that complies with Fed. R. Civ. P. 8. No objections to the Report-Recommendation dated July 27, 2011 have been filed.<sup>1</sup> After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation for the reasons stated therein.

By letter dated August 22, 2010, Plaintiff request an extension of time to file an Amended Complaint. That request is GRANTED. Plaintiff is advised to comply with the

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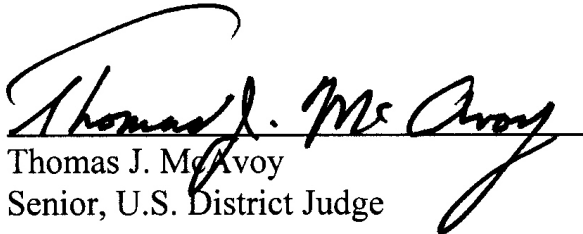
<sup>1</sup> Although Plaintiff did not file objections, he did file a letter asking for an extension of time to file an Amended Complaint. See discussion *infra*.

requirements of Fed. R. Civ. P. 8, as detailed in Magistrate Judge Treece's Report and Recommendation. **Plaintiff shall have until September 15, 2011 to file and serve an Amended Complaint. Plaintiff is cautioned that the failure to submit an amended complaint that fails to comply with Rule 8 may result in the dismissal of this action without the opportunity to replead.**

For the foregoing reasons, the Court ADOPTS the Report and Recommendation and allows Plaintiff until September 15, 2011 to file and serve an Amended Complaint.

**IT IS SO ORDERED.**

Dated: August 25, 2011

  
Thomas J. McAvoy  
Senior, U.S. District Judge